

# EXHIBIT A

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
05-CVS-173

RICHARD P. NORDAN, as Ancillary  
Administrator for the separate Estates of  
STEVEN S. HELVENSTON, MIKE R.  
TEAGUE, JERKO GERALD ZOVKO, and  
WESLEY J.K. BATALONA,

Plaintiffs,

v.

BLACKWATER SECURITY  
CONSULTING, LLC, et al.,

Defendants.

**AMENDED MOTION TO DISMISS**

FILED  
2005 OCT 13 PM 4:48  
WAKE COUNTY, C.S.C.  
BY \_\_\_\_\_

NOW COME Defendants Blackwater Security Consulting LLC and Blackwater Lodge  
and Training Center, Inc. (collectively "Blackwater"), pursuant to Rules 12(b)(1) and 12(b)(6)  
and move that this action be dismissed. The grounds for this motion include the following:

1. The State of North Carolina may not regulate the decisions of contractors  
operating in support of United States military forces in the Iraqi theater of operations, inquire  
into the circumstances relating to casualties sustained by such contractors in war, or impose  
liability arising from the manner in which such contractors support military operations, without  
impermissibly interfering in the President's functions as Commander-in-Chief under Article II of  
the United States Constitution.

2. Contractors engaged to support military operations by performing supply,  
logistics, security, transportation, maintenance, engineering, intelligence, or other functions  
traditionally performed by United States armed forces personnel are subject to the same  
immunities that shield the armed forces from being answerable in State courts or under State law  
for casualties sustained in war.

3. The State of North Carolina lacks jurisdiction to legislate beyond the territorial boundaries of the United States in the circumstances of this case.

4. Congress has created an exclusive and comprehensive Federal compensation scheme in the Defense Base Act, 42 U.S.C. § 1651 *et seq.*, which commits jurisdiction to the United States Secretary of Labor, preempts the Plaintiff's claims under State law, and deprives the Court of jurisdiction.

Apart from the lack of subject matter jurisdiction, the Complaint fails to state a claim upon which relief can be granted because the claims asserted here were waived and released in the contracts executed by the Plaintiff Decedents. Further, Plaintiff has not pleaded with the requisite particularity, and further, even if the Plaintiff had a claim of fraud in the inducement, such a claim could only proceed if pursued through arbitration.

WHEREFORE, Blackwater respectfully moves that this action be dismissed.

Respectfully submitted, this 13 day of October, 2005.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the forgoing document was served on the parties listed below by mailing a copy thereof to each of said parties, addressed, postage paid, as follows:

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This the 13 day of October, 2005.



Mark A. Ash